

Docket Item #6  
BZA CASE #2004-00037

Board of Zoning Appeals  
October 14, 2004

**ADDRESS:** 109 EAST OXFORD AVENUE  
**ZONE:** R-2-5, RESIDENTIAL  
**APPLICANT:** PAUL AND ASHLEY KLINK, OWNERS, BY GAVER NICHOLS,  
ARCHITECT

**ISSUE:** Variance to enlarge an existing noncomplying garage to a studio/storage building located in the required side and rear yards.

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CODE SECTION	SUBJECT	CODE REQMT	APPLICANT PROPOSES	REQUESTED VARIANCE
3-506(A)(2)	Side Yard	7.00 ft*	1.30 ft	5.70 ft
3-506(A)(3)	Rear Yard	15.50 f**	7.00 ft	8.50 ft

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\* Based upon a building height of 17.50 feet to the roof eave line facing the east property line.

\*\* Less the roof overhang.

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(insert sketch here)

**STAFF CONCLUSION:**

Staff recommends **denial** of the variance because the request does not meet the criteria for a variance.

**I. Issue**

The applicants propose to enlarge a existing one-story detached garage with a two-story studio and storage building for the property at 109 East Oxford Avenue. The applicants state that the renovated garage structure will no longer be used to store vehicles but will accommodate (1) storage on the first floor and (2) a studio/guest room with a bathroom on the second floor. The existing building footprint will be enlarged 16.40 feet by 18.30 feet to 26.00 feet by 26.00 feet. The height of the structure will increase from 17.50 feet to 21.50 feet. As shown on the submitted drawings the new structure will nearly mirror the footprint of the applicants' home.

**II. Background**

The subject property is two lots of record with 50.00 feet of frontage facing East Oxford Avenue and a depth of 115.00 feet. The property contains a total of 5,750 square feet.

The property is developed with a two-story single family dwelling with a covered open front porch and a rear deck located 10.70 feet from the front property line facing East Oxford Avenue, 9.60 feet from the east side property line and 7.60 feet from the west side property line.

**III. Discussion**

The existing one-story detached garage faces an open rear yard and driveway. The garage measures 16.40 feet by 18.30 feet by 17.50 feet to the top of the roof. The garage is located 1.30 feet from the east side property line and approximately 11.00 feet from the south rear property line. Real estate assessment records indicate the house and garage were built in 1907. The applicants purchased the property in 2002.

Section 12-102(C) of the zoning ordinance permits the applicants to repair, renovate or completely rebuild the existing garage at its present size, height and location. However, section 12-102(A) of the zoning ordinance prohibits the expansion of a noncomplying structure unless it complies with zoning. The existing garage does not meet the R-2-5 zone regulations, and the proposed larger and taller structure also will not comply with R-2-5 zone regulations as to the required setback from the east side property line and south rear property line. Therefore, the applicants must seek a variance from the side yard and rear yard setback requirements.

A comparison of the existing garage with the larger studio/storage building is as follows:

	<u>Existing Garage</u>	<u>Proposed Studio Blding</u>	<u>Change</u>
Height	17.50 ft	21.50 ft	+4.00 ft
Width	16.40 ft	26.00 ft	+9.60 ft
Length	18.30 ft	26.00 ft	+7.70 ft
Floor Area	300 sq ft (one-story)	1,352 sq ft (two-story)	+380 sq ft

There have been no variances previously granted for the subject property. Since 1993, there has been one similar variance request for a garage in the immediate area heard by the Board of Zoning Appeals:

<u>Case #</u>	<u>Date</u>	<u>Address</u>	<u>Variance</u>	<u>Action</u>
2003-0004	2/13/04	8 East Oxford Ave	Side yard setback of 4.00 ft	Granted
			Rear yard setback of 9.00 ft	Granted

**IV. Master Plan/Zoning**

The subject property is zoned R-2-5, residential and has been so zoned since 1951, and is identified in the Potomac West Small Area Plan for residential low land use.

**V. Requested variances**

Section 4-506(A)(2), Side Yard (East):

The R-2-5 zone requires each single-family dwelling to provide two side yards of 7.00 feet. The existing renovated garage will continue to be located 1.30 feet from the east side property line. Based on a building height of 17.50 feet for the larger studio structure will not comply with the east yard side property line, therefore a 7.00 side yard setback is required. The applicants request a variance of 4.70 feet from the east side property line.

Section 4-506(A)(3), Rear Yard (South):

The R-2-5 zone requires a rear yard setback of 7.00 feet or the height of the structure whichever is greater. The large and taller studio structure (less the roof overhang) requires a rear yard setback of 15.50 feet. The larger structure is located 7.00 feet from the south rear yard property line. The applicants request a variance of 8.50 feet.

**VI. Noncomplying Structure**

The existing garage at 109 East Oxford Avenue is a noncomplying structure with respect to the following:

	<u>Required</u>	<u>Provided</u>	<u>Noncompliance</u>
East Side Property Line	7.00 ft	1.30 ft	5.70 ft

**VI. Staff analysis under criteria of section 11-1103**

1. Does strict application of the zoning ordinance result in undue hardship to the property owner amounting to a confiscation of the property, or prevent reasonable use of the property?

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The property is a slightly larger property than is required for a single family residential lot. The property does not have difficult topography which would prohibit or unreasonably restrict its use. No condition of the property creates a hardship that would permit a larger structure particularly one that looks like a separate dwelling and which is nearly the size of the applicants’ existing house. A second dwelling unit on the property is not permitted under the zoning regulations. Staff finds no hardship in this case.

2. Is the hardship identified above unique to the subject property, or is it shared by other properties in the neighborhood or the same zone?

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There is no hardship in this case. The condition upon which the petition for a variance is based, as stated by the applicant, is the need to improve an existing usable structure to accommodate storage and a separate guest room and/or studio. The existing noncomplying garage structure if altered as the applicants wish for storage can be accomplished without the need of a variance. A taller and larger structure as proposed is out of character for the lot and the neighborhood. Preserving the historic character of the one car-garage structure is more appropriate for the lot. Similar garages in the area have not been altered and enlarged as proposed by the applicants. The staff is concerned that an enlarged structure could be converted into a second dwelling unit in the future. A second dwelling unit on the property is prohibited.

3. Was the hardship caused by the applicant and, if so, how was it created? Or did the condition exist when the property was purchased and, if so, did the applicant acquire the property without knowing of the hardship; how was the hardship first created?
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There is no hardship. The applicants were aware of the existing garage and its proximity to the side property line. The existing garage can be converted to storage without the need of a variance.

4. Will the variance, if granted, be harmful in any way to any adjacent property or harm the value of adjacent and nearby properties? Will it change the character of the neighborhood?
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The proposed larger and taller building is inappropriate for the lot and will have a visual impact on the adjoining properties. A two-story accessory building of the scale proposed is out of character for this single-family lot. The proposed structure will change the character of the neighborhood and be harmful the value of adjacent and nearby properties.

5. Have alternate plans been considered so that a variance would not be needed?
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None that would meet the desires of the applicants.

6. Is any other official remedy available to relieve the hardship?
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None.

**DEPARTMENTAL COMMENTS**

Legend: C - code requirement R - recommendation S - suggestion F - finding

\* The applicant is advised that if the variance or special exception is approved the following additional comments apply.

Transportation and Environmental Services:

F-1 No objections or recommendations.

Code Enforcement:

- F-1 The building plans submitted with the application do not represent a new garage. The plans show a studio and storage space which exceeds the existing use group of the current garage. This structure reflects a stand alone building and not an accessory structure. As such, the applicant shall declare if the intended use is for commercial or private use. The type of use shall conform to the requirements of the Uniform Statewide Building Code (USBC). Private use of the structure may not convert to commercial use without conforming to all applicable requirements of the USBC for commercial structures.
- C-1 All exterior walls within 5 feet from an interior property line shall have a fire resistance rating of 1 hour, from both sides, with no openings permitted within the wall. As alternative, a 2 hour fire wall may be provided. This condition is also applicable to skylights within setback distance.
- C-2 Prior to the issuance of a demolition permit or land disturbance permit, a rodent abatement plan shall be submitted to Code Enforcement that will outline the steps that will taken to prevent the spread of rodents from the construction site to the surrounding community and sewers.
- C-3 Roof drainage systems must be installed so as neither to impact upon, nor cause erosion/damage to adjacent property.
- C-4 A soils report must be submitted with the building permit application.
- C-5 New construction must comply with the current edition of the Uniform Statewide Building Code (USBC).
- C-6 The applicant must obtain a Certificate of Occupancy prior to occupancy (use) of the structure (USBC 119.1).

- C-7 Construction permits are required for this project. Plans shall accompany the permit application that fully detail the construction as well as layouts and schematics of the mechanical, electrical, and plumbing systems.
- C-8 Permission from adjacent property owners is required if access to the adjacent properties is required to complete the proposed construction. Otherwise, a plan shall be submitted to demonstrate the construction techniques utilized to keep construction solely on the referenced property.
- C-9 A wall location plat prepared by a land surveyor is required to be submitted to this office prior to requesting any framing inspection.

Recreation (Arborist):

- F-1 No trees are affected by this plan.

Historic Alexandria (Archaeology):

- F-1 There is a low potential for this project to disturb significant archaeological resources. No archaeological action is required.

Other Requirements Brought to the Applicant's Attention:

- C-1 A wall check survey plat shall be submitted to Planning and Zoning when the building footprint is in place, pursuant to Alexandria City Code section 8-1-12.